



CR-4695-2024 (O&M)

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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Date of Decision : 21.07.2025

Subhash Chander

... Appellant

Versus

Raj Kumar and others

... Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Ajay Jain, Advocate,
for the appellant.

Mr. Rishav Kamboj, Advocate,
for respondents No.1 and 2.

PANKAJ JAIN, J. (Oral)

Challenge is to the order dated 01.08.2024 whereby Civil Judge, Junior Division, Hisar, after framing issues posted the matter for evidence of the defendant.

2. The plaintiff filed suit for mandatory injunction directing the defendant to vacate and handover possession of the first and second portion of the building and also sought recovery of mesne profits @ ₹ 2500/- per month for use and occupation of the building in question.

3. As per the case of the plaintiff, the building was purchased by plaintiffs No.1 and 2 along with their younger brother Anil Kumar vide registered sale deed dated 05.08.1981 bearing document No.472. As per the



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plaintiff, they along with Anil Kumar constructed triple storey building in the year 1982. Anil Kumar died on 06.02.2014 leaving behind plaintiffs No.3 to 6. The defendant who is elder brother of plaintiffs No.1 and 2 and is not in good financial situation, was permitted to reside with his family on the first and second floor portion of the building. The plaintiff claimed that they terminated the license of the defendant and requested him to handover vacant possession of the portion in his possession and to pay mesne profits. However, the defendant having failed to deliver back possession, the plaintiff filed suit seeking decree of mandatory injunction.

4. The suit was contested by the defendant who claimed of having become owner of the suit property by way of adverse possession.

5. On the strength of the aforesaid pleadings, the trial Court has framed the following issues : -

1. Whether the plaintiff is entitled to the relief of declaration to the effect that defendant has perfected his title by way of adverse possession qua suit property and thus becomes owner in possession of the suit property? OPD
2. If issue No.1 is decided in affirmative whether plaintiffs can be restrained from alienating the suit property by way of sale, gift, mortgage etc. and from interfering in the peaceful possession of defendant? OPD
3. If issue No.1 is decided in negative, whether plaintiff is entitled for mandatory injunction and grant of mesne profits as prayed for in the headnote of the plaint? OPD
4. If issue No.3 is decided in affirmative, whether defendants can be restrained from interfering in possession of ground floor portion or from demolish the suit property in any manner? OPP
5. Whether suit of the plaintiffs is false and frivolous? OPD



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6. Whether plaintiffs have filed the present suit by concealing the material facts from this court? OPD
7. Whether plaintiffs have no cause of action to file the present suit? OPD
8. Whether suit of the plaintiff is not maintainable in the present form? OPD
9. Whether suit is bad for non-joinder and mis-joinder of necessary parties? OPD
10. Whether plaintiffs are stopped from filing the present suit by way of their own act and conduct? OPD
11. Relief.

6. In the considered opinion of this Court, even though the petitioner defendant is aggrieved having been directed to lead evidence at the first instance instead of the plaintiff but this Court finds that the material issue in the order is with respect to framing of the issues. Issue No.1 framed shows that the Court did not apply its mind.

7. Settlement of issues determines the road map for suit. Order XIV of Code of Civil Procedure, 1908 provides as under: -

“ **ORDER XIV**

Settlement of Issues and Determination of Suit on Issues of Law or on Issues agreed upon

1. Framing of issues.—(1) Issues arise when a material proposition of fact or law is affirmed by the one party and denied by the other.

(2) Material propositions are those propositions of law or fact which a plaintiff must allege in order to show a right to sue or a defendant must allege in order to constitute his defence.

(3) Each material proposition affirmed by one party and denied by the other shall form the subject of distinct issue.

(4) Issues are of two kinds:



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(a) issues of fact,

(b) issues of law.

(5) At the first hearing of the suit the Court shall, after reading the plaint and the written statements if any, and 1[after examination under rule 2 of Order X and after hearing the parties or their pleaders], ascertain upon what material propositions of fact or of law the parties are at variance, and shall thereupon proceed to frame and record the issues on which the right decision of the case appears to depend.

(6) Nothing in this rule requires the Court to frame and record issues where the defendant at the first hearing of the suit makes no defence.

7. A close scrutiny of Order XIV Rule 1 of the Code, reveals that an issue arises when a material proposition of fact or law is affirmed by the one party and denied by the other. As per Rule 1 Clause (2), 'material propositions' are the propositions of law or fact which a plaintiff must allege in order to show a right to sue or a defendant needs to allege in order to constitute his defence. Order XIV. Rule 1 Clause (3) of the Code adumbrates that each material proposition affirmed by one party and denied by the other forms a distinct issue. Order XIV, Rule 1 Clause (5) of the Code mandates that Court, at the first hearing of the suit must ascertain what material propositions of fact or of law the parties are at variance, and shall thereupon proceed to chisel issues on which the fate of the *lis* hinges.

8. Explaining the importance of framing of issues in civil suit 3 judges bench in **Makhan Lal Bangal v. Manas Bhunia** reported as (2001) 2 SCC 652 observed as under : -



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“19. XXXXXXXXXXXX The stage of framing the issues is an important one inasmuch as on that day the scope of the trial is determined by laying the path on which the trial shall proceed excluding diversions and departures therefrom. The date fixed for settlement of issues is, therefore, a date fixed for hearing. The real dispute between the parties is determined, the area of conflict is narrowed and the concave mirror held by the Court reflecting the pleadings of the parties pinpoints into issues the disputes on which the two sides differ. The correct decision of civil lis largely depends on correct framing of issues, correctly determining the real points in controversy which need to be decided. The scheme of Order 14 of the Code of Civil Procedure dealing with settlement of issues shows that an issue arises when a material proposition of fact or law is affirmed by one party and denied by the other. Each material proposition affirmed by one party and denied by other should form the subject of a distinct issue. An obligation is cast on the Court to read the plaint/petition and the written statement/counter, if any, and then determine with the assistance of the learned counsel for the parties, the material propositions of fact or of law on which the parties are at variance. The issues shall be framed and recorded on which the decision of the case shall depend. The parties and their counsel are bound to assist the Court in the process of framing of issues. Duty of the counsel does not belittle the primary obligation cast on the Court. It is for the Presiding Judge to exert himself so as to frame sufficiently expressive issues. An omission to frame proper issues may be a ground for remanding the case for retrial subject to prejudice having been shown to have resulted by the omission. The petition may be disposed of at the first hearing if it appears that the parties are not at issue on any material question of law or of fact and the Court may at once pronounce the judgment. If the parties are at issue on some questions of law or of fact, the suit or petition shall be fixed for trial calling upon the parties to adduce evidence on issues of fact. The evidence shall be confined to issues and the pleadings. No evidence on controversies, not covered by



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issues and the pleadings, shall normally be admitted, for each party leads evidence in support of issues the burden of proving which lies on him. The object of an issue is to tie down the evidence and arguments and decision to a particular question so that there may be no doubt on what the dispute is. The judgment, then proceeding issue-wise would be able to tell precisely how the dispute was decided.

9. Same sentiment was echoed in **Ramrameshwari Devi v. Nirmla Devi**, reported as **(2011) 8 SCC 249**.

10. Framing of issues is an important stage in the civil litigation. It is the bounden duty of the Court that due care, caution, diligence and attention must be bestowed by the learned Presiding Judge while framing of issues. The issues must show that he read the pleadings and applied mind.

11. On the basis of afore-stated parameters, this Court finds that the order dated 01.08.2024 cannot be sustained and the same is hereby set aside. The Trial Court is directed to re-frame the issues and place onus to prove the same in accordance with law.

12. With the aforesaid observations, the present revision petition is disposed of.

13. Pending application, if any, stands disposed off.

(PANKAJ JAIN)
JUDGE

July 21, 2025
Paritosh Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No